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LAW OF THE SEA

Letter dated 5 October 1994 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith a document entitled "Position of the Russian Federation regarding the legal regime of the Caspian Sea" (see annex).

I should be grateful if you would have the text of this letter and of its annex circulated as a document of the General Assembly under agenda item 35.

(Signed) S. LAVROV

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ANNEX

Position of the Russian Federation regarding the legal regime of the Caspian Sea

The Caspian Sea lacks a natural link to the world's oceans and seas and is thus a land-locked body of water. The norms of international maritime law, particularly those pertaining to the territorial sea, the exclusive economic zone and the continental shelf, are not applicable to it. There is thus no basis for unilateral claims relating to the establishment of zones of this type in the Caspian or for the introduction of elements of their regimes.

The Caspian Sea and its resources are of vital importance to all the States bordering on it. For this reason, all utilization of the Caspian Sea, in particular the development of the mineral resources of the Caspian seabed and the rational use of its living resources, including a stock of fish of the sturgeon family which is unique in its size and species composition, must be the subject of concerted action on the part of all States bordering the Caspian if the flora and fauna of this unique body of water are not to be harmed. Its ecosystem is highly vulnerable, and the chief task at hand is to prevent a regional environmental disaster.

This task can only be addressed through strict respect for the legal regime of the Caspian Sea and the prevention of any unilateral action, given that the Caspian Sea, by virtue of its legal nature, is subject to joint utilization; any questions relating to activities, including the exploitation of its resources, must be decided jointly by all the countries bordering its coast. National claims made by any Caspian Sea State in connection with the Sea and its resources inevitably affect the rights and interests of the other Caspian States and cannot be considered legitimate.

The legal regime of the Caspian Sea provided for in the Soviet-Iranian agreements of 26 February 1921 and 25 March 1940 has not as yet undergone any change. This regime provides for free navigation in the Caspian Sea by vessels flying the flag of its coastal States, national regimes for vessels of other coastal States in their home ports and unimpeded fishing in its waters, with the exception of the 10-mile coastal zone, in which fishing is reserved for vessels of the corresponding coastal State.

In accordance with the principles and norms of international law, Russia and the other coastal States - former republics of the USSR and Iran - are bound by the provisions of the 1921 and 1940 agreements. The legal regime of the Caspian Sea set out in these agreements needs to be updated, taking into account changing circumstances, including those resulting from the emergence of new coastal States. However, this can only be done through the conclusion of new agreements among all the Caspian Sea States, bearing in mind the importance of preserving the ecosystem of this land-locked body of water.

The Russian side has consistently made efforts in this direction. In particular, it drew up and submitted for the consideration of all Caspian Sea States a draft agreement on the preservation and utilization of the living

resources of the Caspian Sea. Generally speaking, this agreement has been endorsed by all the Caspian Sea States but, owing to various delays, it has yet to be signed by them.

The prompt conclusion of an agreement on regional cooperation in the Caspian Sea is also of great significance. The draft of such an agreement, prepared by the Iranian side with the participation of other coastal States, provides for the establishment of a mechanism for regional cooperation within whose framework all questions relating to the use of the Caspian Sea and its resources might be effectively settled. However, the talks on the final conclusion of this draft are being artificially prolonged.

It is unfortunate that the Russian side's efforts to speed up the conclusion of these two important agreements, which are consistent with the interests of all countries bordering the Caspian Sea, are constantly being met with inaction, which lends itself to no other interpretation than an attempt to avoid the establishment of a new international legal regime for the Caspian Sea. At the same time, some Caspian Sea States are contemplating unilateral action and, in disregard of the principles and norms of international law, are seeking to obtain unilateral advantages, to the detriment of the rights and interests of other Caspian Sea States.

Unilateral action in respect of the Caspian Sea is unlawful and will not be recognized by the Russian Federation, which reserves the right to take such measures as it deems necessary and whenever it deems appropriate, to restore the legal order and overcome the consequences of unilateral actions. Full responsibility for these events, including major material damage, rests with those who undertake unilateral action and thereby display their disregard for the legal nature of the Caspian Sea and for their obligations under international agreements.